

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 202004800	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:00 PM, Tuesday, 06/02/2020 8:20 PM	Location of Incident: Bleecker Street and Broadway; 6th Precinct stationhouse	Precinct: 06	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 07/02/2020 2:14 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/02/2020 2:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Dones	27390	948203	006 PCT
2. An officer			
3. DI Robert Ohare	00000	916960	006 PCT
4. POM James Shouldis	16502	958068	006 PCT
5. POM Kachun Cheung	05890	963454	006 PCT
6. POF Danielle Ambrecht	17611	942948	006 PCT
7. POM Richard Accardi	18377	961592	006 PCT
8. Officers			006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Marta Maciag	11153	966180	006 PCT
2. SSA Daniel Houlahan	00821	925472	006 PCT
3. SGT Martin Maloney	01345	944114	006 PCT
4. POF Maureen Carey	20116	958370	006 PCT
5. POM Brian Garcia	00610	950465	006 PCT
6. POF Annalee Simon	24898	953407	006 PCT
7. POM Michael Collarini	00964	953767	006 PCT
8. POM Nolan Connor	20912	963927	006 PCT
9. POM James Weik	26601	967389	006 PCT
10. POM Gregory Abramson	23030	963829	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Dones	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones spoke discourteously to § 87(2)(b)	
B. Officers	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, officers spoke discourteously to § 87(2)(b)	
C.POM Jonathan Dones	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.POM Jonathan Dones	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)	
E.POM James Shouldis	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer James Shouldis used physical force against § 87(2)(b)	
F.POM Kachun Cheung	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Kachun Cheung used physical force against § 87(2)(b)	
G. An officer	Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.	
H. An officer	Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.	
I. An officer	Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.	
J.DI Robert Ohare	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare used physical force against § 87(2)(b)	
K.POM Richard Accardi	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Richard Accardi spoke discourteously to § 87(2)(b)	
L.DI Robert Ohare	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare spoke discourteously to § 87(2)(b)	
M.POF Danielle Ambrecht	Discourtesy: En route to the 6th Precinct stationhouse, Police Officer Danielle Ambrecht spoke discourteously to § 87(2)(b)	
N.POM Jonathan Dones	Abuse: Inside the 6th Precinct stationhouse, Police Officer Jonathan Dones did not obtain medical treatment for § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 2, 2020, § 87(2)(b) called the CCRB and filed this complaint on behalf of herself and her cousin § 87(2)(b).

On June 2, 2020, at approximately 8:20 p.m., § 87(2)(b) and § 87(2)(b) were walking in the vicinity of the intersection of Bleecker Street and Broadway in Manhattan when they observed officers from the 6th Precinct arresting an unidentified individual. PO Jonathan Dones, PO Richard Accardi, PO James Shouldis, and PO Kachun Cheung of the 6th Precinct approached § 87(2)(b) and § 87(2)(b). PO Dones told § 87(2)(b) to get the fuck back (**Allegation A: Discourtesy, § 87(2)(g)**) (**Allegation B: Discourtesy, § 87(2)(g)**). PO Dones slapped § 87(2)(b)'s hand (**Allegation C: Force, § 87(2)(g)**). Officers informed § 87(2)(b) he was under arrest. PO Cheung, PO Dones, and PO Shouldis pulled § 87(2)(b) to the ground (**Allegations D-F: Force, § 87(2)(g)**). Multiple officers drew their nightsticks, and at least one officer struck § 87(2)(b) in the head with their nightstick (**Allegation G: Force, § 87(2)(g)**). An officer struck § 87(2)(b) once on the legs and once on the body with a nightstick (**Allegation H: Force, § 87(2)(g)**, **Allegation I: Force, § 87(2)(g)**).

PO Dones then assisted Deputy Inspector Robert Ohare of the 6th Precinct, with the arrest of § 87(2)(b). Deputy Inspector Ohare pushed § 87(2)(b) against a nearby (**Allegation J: Force, § 87(2)(g)**). After § 87(2)(b) and § 87(2)(b) had been handcuffed, PO Accardi guarded § 87(2)(b) during which time PO Accardi stated, "Cut the shit" (**Allegation K: Discourtesy, § 87(2)(b)**). While § 87(2)(b) was in a police vehicle on scene, Deputy Inspector Ohare called § 87(2)(b) "stupid" (**Allegation L: Discourtesy, § 87(2)(g)**).

During transport to the 6th Precinct stationhouse, PO Danielle Ambrecht told § 87(2)(b) "Shut the fuck up" (**Allegation M: Discourtesy, § 87(2)(g)**). Inside the 6th Precinct stationhouse, § 87(2)(b) did not receive medical attention when requested (**Allegation N: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were issued summonses for violating NYC curfew rules.

§ 87(4-b), § 87(2)(g)

This case received media coverage and was deemed sensitive. § 87(2)(b)

§ 87(2)(b) This article identifies the victims as § 87(2)(b) and § 87(2)(b)

Although the victims in this case were not participating in a protest at the time they interacted with police, this case was deemed a protest case because it occurred in the immediate vicinity of protest activity.

Civilian cell phone video was received regarding this investigation, attached in BR1, 40,41, summarized in BR 33, 38, 39. Body-worn camera (BWC) footage was received regarding the investigation, attached in BR14-32, 70 and summarized in BR34-37, 42-56.

Findings and Recommendations

Allegation (A) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones spoke discourteously to § 87(2)(b)

Allegation (B) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that on June 2, 2020, at a time he reported as 8:00 p.m. but was determined by the investigation to be approximately 8:20 p.m., he and his cousin § 87(2)(b) were walking in the vicinity of Bleecker Street and Broadway in Manhattan. § 87(2)(b) had collected § 87(2)(b) from her job § 87(2)(b), and § 87(2)(b) was dressed in her § 87(2)(b) uniform. During their walk, they stopped to purchase food. As they walked, § 87(2)(b) and § 87(2)(b) observed officers from the 6th Precinct arresting an unidentified individual. They approached where the officers were conducting the arrest. As § 87(2)(b) and § 87(2)(b) stood near a group of officers conducting an arrest on Bleecker Street, PO Dones and five or six other officers moved towards where § 87(2)(b) and § 87(2)(b) were standing. PO Dones and other officers shouted, “Back up, back up, back the fuck up!” § 87(2)(b) determined PO Dones’ identity from a summons he received from PO Dones (BR12).

In her testimony to the CCRB, § 87(2)(b) stated that on the date of incident, she ended her shift at § 87(2)(b) at approximately 6:30 p.m. She met with § 87(2)(b) at approximately 6:45 p.m., and they purchased food from a fast-food restaurant at approximately 7:30 p.m. As they walked, they observed officers making an arrest of an unidentified individual and approached to observe what was going on. As she and § 87(2)(b) walked towards the scene of an arrest, three or four police officers including PO Dones approached them. These officers told § 87(2)(b) and § 87(2)(b) to move back. As PO Dones and the other officers spoke to § 87(2)(b) and § 87(2)(b) and § 87(2)(b) moved back. § 87(2)(b) obtained PO Dones’ name from a summons he issued her (BR13).

PO Dones testified that when PO Dones arrived at the incident location, he observed multiple officers assisting with the arrest of another male. Two people, identified by the investigation as § 87(2)(b) and § 87(2)(b) approached to within ten to fifteen feet of where the officers were making the arrest. PO Dones told § 87(2)(b) and § 87(2)(b) to get back, and to leave the area, as curfew hours were in effect. § 87(2)(b) and § 87(2)(b) did not comply with the instructions to leave the area. § 87(2)(b) and § 87(2)(b) cursed at the officers. PO Dones did not recall what specifically they said. PO Dones then approached § 87(2)(b) and informed him that he was under arrest. Other than informing § 87(2)(b) he was under arrest, PO Dones did not make any other statements at that time (BR53).

PO Abramson’s BWC footage (BR16, summarized in BR37) captures the moments officers approach § 87(2)(b). Between 01m01s and 01m10s, a group of officers is yelling “Get back,” at individuals identified by the investigation as § 87(2)(b) and § 87(2)(b). PO Dones cannot be specifically identified at this portion of the video.

The BWC footage of PO Dones (BR26, summarized BR43) in does not depict PO Dones or any other officer using discourteous language while speaking with any individuals.

PO Abramson’s BWC footage appears to capture the moment § 87(2)(b) alleges PO Dones allegedly stated, “Back the fuck up.” Officers do instruct § 87(2)(b) to back up, but do not use the word “Fuck” in the video. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)

§ 87(2)(b) testified that PO Dones and the other officers reached him seconds after they began to yell at him. § 87(2)(b) held his phone in one of his hands in front of his chest; he did not provide testimony about what he was doing with the phone. § 87(2)(b) stated that PO Dones slapped his right hand, which held his phone. § 87(2)(b) dropped his phone due to the slap (BR12).

§ 87(2)(b) did not describe any officer slapping § 87(2)(b)'s hand. § 87(2)(b)'s first description of officers coming into physical contact with § 87(2)(b) was when an officer struck § 87(2)(b) with their nightstick (BR13).

Video footage provided by the investigation by from § 87(2)(b) (BR40, summarized in BR38) does not depict PO Dones slapping § 87(2)(b)'s hand. This footage starts after officers are already in physical contact with § 87(2)(b) and thus it does not capture the period when this allegation allegedly occurred.

BWC footage from PO Ambrecht captures the portion of the incident when PO Dones allegedly struck the hand holding the phone. Between 00m21s, PO Ambrecht's BWC shows an officer identified by the investigation as PO Dones advancing towards § 87(2)(b). § 87(2)(b) is standing a significant distance from the site where the unidentified individual is being arrested. PO Dones is facing § 87(2)(b)'s right side and an unidentified officer is approaching § 87(2)(b)'s left side. § 87(2)(b) holds a bag in his left hand; his right hand is not clearly depicted. After 00m22s, PO Ambrecht's video stops capturing the incident for five seconds (BR18, summarized BR43).

PO Dones' BWC footage does not capture the portion of the incident where this is alleged to have occurred, as § 87(2)(b) is on the ground when PO Dones' BWC footage begins (BR26, summarized in BR43).

In his statement to the CCRB, PO Dones testified (BR53) that when he approached § 87(2)(b) and § 87(2)(b) he told them to get back and leave the site of the arrest. When they cursed at the officers and did not comply, he approached § 87(2)(b) and informed him that he was under arrest. PO Dones stated that he did not slap § 87(2)(b)'s hand with his phone in it.

§ 87(2)(g)

Allegation (D) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)

Allegation (E) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer James Shouldis used physical force against § 87(2)(b)

Allegation (F) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Kachun Cheung used physical force against § 87(2)(b)

In his statement to the CCRB (BR12), § 87(2)(b) testified immediately after PO Dones slapped his phone out of his hand, other officers wrapped their hands around his arms. § 87(2)(b) felt a baton strike the left rear part of his head. He heard officers shouting, "Grab his legs." § 87(2)(b) was not able to determine which officer made this statement. Officers grabbed § 87(2)(b)'s legs. As the

officers began to grab § 87(2)(b) he tensed his muscles in anticipation of getting hit. The officers pushed § 87(2)(b) onto the ground by lifting his legs off the ground. As officers brought § 87(2)(b) to the ground, at least one officer fell. § 87(2)(b) stated he suffered a head contusion and bruising to his back.

Video footage provided to the investigation by § 87(2)(b) and ostensibly generated by § 87(2)(b) (BR40, summarized in BR38) captures § 87(2)(b) being brought to the ground. At 00m05s, § 87(2)(b) is depicted with three police officers making physical contact with him. The video does not capture if officers exert directional force or strike § 87(2)(b). An officer who has his back to § 87(2)(b) is depicted wearing a helmet; two other officers are depicted wearing standard uniforms. The position of each officer's hands cannot be determined from the video. At 00m06s, the officer with the helmet falls back. § 87(2)(b) moves backwards with his knees bent. An officer without a helmet or hat is behind § 87(2)(b). An officer is in front of and to the left of § 87(2)(b). This officer is depicted bent forward at the waist with his arms around § 87(2)(b)'s bent right knee. At 00m07s, § 87(2)(b) falls to the ground on his back, with his body appearing to land on top of an officer. A different officer continues to pull on § 87(2)(b)'s leg. In the next two seconds, the officer who fell extends his arms at § 87(2)(b) and § 87(2)(b) moves backwards, his body twisting from his back to his front. The helmeted officer and the officer in contact with § 87(2)(b)'s legs are in contact with § 87(2)(b)'s body; the specific physical position of their hands cannot be determined by the video. After this point, between 00m10s and 00m20s, the video moves away from where § 87(2)(b) is on the ground.

PO Shouldis' BWC footage (BR23, summarized in BR46) partially captures the apprehension of § 87(2)(b). Between 00m41s and 00m49s, PO Shouldis moves behind § 87(2)(b). His arms mostly obstruct the view of the camera. There is movement in front of the camera. At 00m50s, § 87(2)(b) is laid stomach-down on the ground, with his head turned away from the camera. An officer is holding zip-tie style restraints. § 87(2)(b)'s left arm is behind his back. PO Shouldis and other officers secure § 87(2)(b) in the zip ties.

PO Ambrecht's BWC footage partially captures the takedown. At 00m22s, an officer's hand makes contact with § 87(2)(b)'s stomach, this hand is open and this contact does not appear consistent with a hand strike. PO Ambrecht's camera focus moves away from § 87(2)(b) between 00m22s and 00m27s. At 00m27s, § 87(2)(b) can be briefly observed moving westward on Bleecker street, in physical contact with at least one police officer, whose identity cannot be determined due to the angle. One officer stands behind § 87(2)(b) with the officer's right hand wrapped partially around § 87(2)(b)'s right bicep. At 00m28s, an officer in a helmet extends both arms and may come into contact with § 87(2)(b)'s chest, § 87(2)(b) moves rightward out of frame. The camera captures limited officer movement and the periphery of the physical struggle until 00m33s. At 00:33, an officer can be seen falling to the ground in front of § 87(2)(b); this officer's identity cannot be determined from this video. § 87(2)(b) partially bends forward at the waist, at 00m34s, an officer's forearm appears to be in contact with the rear of § 87(2)(b)'s head. This does not appear to be a strike, rather, the contact is sustained. § 87(2)(b) falls to the ground with PO Shouldis and other officers in physical contact with him at 00m35s. At 00m35s, multiple officers' hands, including PO Ambrecht's right hand, are in contact with § 87(2)(b)'s shoulders and back. The camera does not capture additional movement or strikes at this time. § 87(2)(b) is held on the ground, at 00m51s, with a fairly clear frame, multiple officers' hands are in contact with § 87(2)(b)'s back, no officers' hand is contact with § 87(2)(b)'s head or neck. After 01m03s, PO Ambrecht disengages from § 87(2)(b) physically (BR18, summarized BR43).

PO Shouldis' BWC, at 00m21s, shows an officer pointing behind PO Shouldis. PO Shouldis turns, facing west on Bleecker Street. § 87(2)(b) and § 87(2)(b) can be seen walking east on

Bleecker street in the direction of where the officers have the male on the ground. PO Shouldis moves towards § 87(2)(b) and § 87(2)(b). At 00:28, PO Shouldis stands several feet away from § 87(2)(b). At 00m29s, § 87(2)(b) raises his hands above his head and takes a step back. Another officer points with their hand towards § 87(2)(b) chest as § 87(2)(b) and § 87(2)(b) walk backwards, away from the officers at 00m30s. PO Shouldis' camera turns away from where § 87(2)(b) stands between 00:32 and 00:40, although a bag with a New York Yankees logo held in § 87(2)(b)'s left hand can be seen entering and exiting the frame at several points. At 00m40s, § 87(2)(b)'s knees are bent, and two police officers are in contact with his body. Between 00m41s and 00m49s, PO Shouldis moves behind § 87(2)(b). His arms mostly obstruct the view of the camera, there is movement in front of the camera. At 00m50s, § 87(2)(b) is laid stomach-down on the ground, with his head turned away from the camera. An officer is holding zip-tie style restraints. § 87(2)(b)'s left arm is behind his back. PO Shouldis and other officers secure § 87(2)(b) in the zip ties. (BR23, summarized BR46).

PO Cheung's BWC, between 00m20s and 00m30s shows PO Cheung moving west on Bleecker towards § 87(2)(b) identified by the investigation. Multiple officers have their hands grasped on § 87(2)(b)'s upper body. At 00m32s, PO Cheung moves from § 87(2)(b)'s back to his front. An officer with his baton out is to PO Cheung's right. § 87(2)(b)'s right arm is bent at the elbow, an officer's hands are in contact with it. Between 00m32s and 00m35s, PO Cheung moves slightly forwards towards § 87(2)(b) as multiple officers continue to struggle with § 87(2)(b) as § 87(2)(b) remains upright. At 00m35s to 00m36s, § 87(2)(b) appears to push his right arm towards PO Cheung, and as § 87(2)(b) extends his arm, PO Cheung falls to the ground landing on his side facing away from the melee. As PO Cheung turns over from his side and turns back towards where the officers engaged § 87(2)(b) is on the ground. After 00m38s, PO Cheung stands near where § 87(2)(b) is standing. He does not take further action, standing in the vicinity.

PO Simon's BWC (BR24, summarized in BR49) depicts the apprehension of § 87(2)(b). After § 87(2)(b) was apprehended, other civilians are seen walking and cycling in the background at several points, including 7m05s, 7m10s, 7m51s, and 8m06s. Officers do not make any statements to these individuals or take any actions towards these civilians.

PO Dones testified he told § 87(2)(b) to get back and leave the area because curfew hours were in effect. PO Dones testified that his understanding of the curfew policy was that after 8:00 p.m., no one could be on the streets if they were not an essential worker. PO Dones later clarified that anyone who was outside during curfew and did not comply with instructions to leave was subject to arrest. PO Dones did not elaborate regarding his understanding of the curfew policy in terms of verifying who was an essential worker. PO Dones learned about the curfew policy through internal NYPD email notification; he did not recall specifically what day he received the email. When § 87(2)(b) failed to comply with his instructions, PO Dones grabbed § 87(2)(b) by his body to secure his hands. PO Dones did not recall observing any officer use a hand strike, asp strike, or baton strike against § 87(2)(b) at this point. PO Dones did not recall what § 87(2)(b) was doing at this point. PO Dones fell down while he was in contact with § 87(2)(b). PO Dones did not know why he fell down, he stated he may have tripped, but did not specifically recall why. Seconds after PO Dones fell down, he stood back up (BR53).

PO Shouldis testified to the CCRB (BR57) that he did not recall if he assisted with the physical takedown of § 87(2)(b) and did not recall what, if any, actions § 87(2)(b) was doing that would have necessitated a physical takedown. PO Shouldis was shown his own body-worn camera footage, attached to BR23, which portrays him coming into physical contact with § 87(2)(b) and assisting with the takedown of § 87(2)(b). After reviewing the video, PO Shouldis did not independently recall any additional information. PO Shouldis did not recall any additional

information after observing video provided by § 87(2)(b)

PO Ambrecht did not observe officers use any hand or foot strikes against § 87(2)(b) while he was standing up, or during the takedown process. § 87(2)(b) resisted officers' attempts to bring him to the ground, she was not able to provide a more detailed description of the physical actions § 87(2)(b) took to resist officers' attempts to bring him to the ground beyond refusing to comply with officers' commands. Other than the fact that officers took § 87(2)(b) to the ground, PO Ambrecht did not recall the specific choreography, positioning, or specific events of the takedown. After § 87(2)(b) was on the ground, PO Ambrecht may have placed her hand on his body during the handcuffing process (BR60).

PO Cheung did not believe he was engaged in the physical arrest process for § 87(2)(b). PO Cheung did not recall if he observed officers come into physical contact with § 87(2)(b). PO Cheung did not recall what § 87(2)(b) was doing at the time officers reached him. PO Cheung did not recall what if any actions officers took towards § 87(2)(b). PO Cheung did not observe officers conduct a physical takedown on § 87(2)(b). PO Cheung did not know § 87(2)(b) was taken to the ground. After observing his own BWC footage, contained in Board Review 19, from 00:00 to 1:00, PO Cheung did not recall any additional information regarding this incident (BR61).

No Threat, Resistance, and Injury report was generated regarding the officers' takedown of § 87(2)(b) (BR63).

Emergency Executive Order No. 118, which imposed a city-wide curfew between 8:00 PM and 5:00 AM June 2, 2020-June 3, 2020, was issued June 2, 2020. The order notes that it does not apply to police officers, first responders, individuals "individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies." The order stated that a violation of this order constituted a class B misdemeanor, no specific penalties for violation were articulated in the executive order itself (BR78).

Under New York State guidelines issued by the governor on March 20, 2020, the definition of essential businesses includes "grocery stores including all food and beverage stores" and "restaurants/bars" (BR89).

NYPD Patrol Guide Procedure 221-01 governing the use of force states that officers may use force under the following circumstances: when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life and when it is reasonable to place a person in custody or to prevent escape from custody (BR31).

PO Dones asserted that he approached § 87(2)(b) to place him under arrest for violating Emergency Executive Order No. 118, which banned civilians from being outside between 8:00 p.m. and 5:00 a.m. However, PO Dones conceded in his CCRB testimony that the curfew included an exception for essential workers. An exception for essential workers does indeed appear in Executive Order No. 118. PO Dones did not state in his testimony nor does the BWC footage document any attempt by PO Dones to verify whether § 87(2)(b) met the curfew exception. As noted in the discussion of Allegations A-B, the BWC footage of PO Abramson only depicts officers telling § 87(2)(b) and § 87(2)(b) to move from the area before the officers attempt to arrest them; none of the officers attempt to determine whether either § 87(2)(b) or § 87(2)(b) are essential workers. The investigation noted that while § 87(2)(b) was arrested for violating this order, numerous other civilians were depicted in BWC footage as being present at the same time and after § 87(2)(b)s

arrest, but officers said nothing to these individuals or took any action towards them. § 87(2)(g)

As discussed in Allegations A-B, PO Dones stated that § 87(2)(b) approached an area where officers were arresting an unidentified third-party. However, PO Dones stated that § 87(2)(b) was ten to fifteen feet away and he never claimed that § 87(2)(b) physically interfered in the arrest.

§ 87(2)(g)

Procedure 221-01 outlines two acceptable circumstances under which officers can permissibly use force: when force is needed to ensure the safety of an officer or another person, and when it is necessary to place someone in custody. § 87(2)(g)

§ 87(2)(g)

Allegation (G) Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.

As stated above, § 87(2)(b) stated he felt a nightstick strike him in the head in the course of struggling with officers as he stood. § 87(2)(b) did not describe where on his head he was struck. At the time someone struck him with a nightstick while standing, § 87(2)(b) was tensing his arms. § 87(2)(b) could not see the officer who struck him with the nightstick and was not able to provide a description of the officer. § 87(2)(b) stated he suffered a contusion as a result of this strike (BR12).

PO Dones, PO Ambrecht, PO Accardi, PO Cheung, and PO Shouldis consistently testified they did not recall any officer striking § 87(2)(b) with a baton at any point (BR53, 57-59, 61).

BWC from PO Dones, PO Ambrecht, PO Accardi, PO Cheung, PO Shouldis, PO Abramson, and video taken by § 87(2)(b) does not capture any officer striking § 87(2)(b) with a baton, however, for crucial portions of video from all cameras, the specific location of § 87(2)(b)'s head, position of officers behind § 87(2)(b) and what those officers are doing, cannot be seen. PO Cheung's video captures at least one officer with a night stick drawn, the identity of this officer cannot be determined from his video (BR16-19, 23, 40).

§ 87(2)(g)

Allegation (H) Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.

Allegation (I) Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.

In his statement to the CCRB, § 87(2)(b) stated that while he was face-down on the ground, he felt one strike that felt like a baton strike to his leg, and one strike that felt like a baton strike to his back. Due to § 87(2)(b)'s positioning, he was not able to describe any officer who may have struck him (BR12).

§ 87(2)(b) did not see what happened to § 87(2)(b) while he was on the ground other than officers working to restrain him (BR13).

As stated above, PO Dones, PO Ambrecht, PO Accardi, PO Cheung, and PO Shouldis consistently testified they did not recall any officer striking § 87(2)(b) with a baton at any point (BR53, 57-59, 61).

PO Shouldis' BWC, which appears to capture the entire time § 87(2)(b) is on the ground, does not capture any officer striking § 87(2)(b) with a baton. At 00m50s, § 87(2)(b) is laid stomach-down on the ground, with his head turned away from the camera. An officer is holding zip-tie style restraints. § 87(2)(b)'s left arm is behind his back. PO Shouldis and other officers secure § 87(2)(b) in the zip ties. At 1m00s, audio for the video begins. At 1m29s, PO Shouldis pushes his right hand into the middle of § 87(2)(b)'s back, between his shoulder blades. He moves this hand to § 87(2)(b)'s left bicep at 1m31s. § 87(2)(b) shouts repeatedly for the officers to kill him. At 1m35s, an officer pushes on § 87(2)(b)'s right bicep to turn him from his stomach to his side. At 1m41, nothing is visibly in contact with § 87(2)(b)'s head, an officer's hand can be seen pushing on § 87(2)(b)'s right thigh just above the knee. As § 87(2)(b) is turned to his front, he repeatedly yells, "Put your foot on my neck." Nothing is visibly in contact with § 87(2)(b)'s neck at this point. PO Shouldis and other officers instruct § 87(2)(b) to relax. At 1m55s, PO Shouldis and another officer assist § 87(2)(b) to stand up (BR23, summarized in BR46).

Other BWC from this portion of the incident does not clearly depict the full events of § 87(2)(b)'s time when officers hold him on the ground as clearly as PO Shouldis' video does.

PO Shouldis' video captures the portion of the incident when § 87(2)(b) lay on the ground. The video does not appear to capture any baton strike directed towards § 87(2)(b). No officer testified to observing such a strike, and § 87(2)(b) and § 87(2)(b) were not positioned to observe which officer conducted the alleged strikes. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (J) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare used physical force against § 87(2)(b)

§ 87(2)(b) testified that as other officers apprehended § 87(2)(b) another group of officers approached § 87(2)(b). Deputy Inspector Ohare yelled at § 87(2)(b) "You have to go home." § 87(2)(b) told the officers that she could not go home, since the officers were attacking § 87(2)(b). § 87(2)(b) was not moving towards where § 87(2)(b) was on the ground. Deputy Inspector Ohare may have said, "Okay, arrest her." PO Dones grabbed § 87(2)(b)'s hands. § 87(2)(b) dropped her phone. § 87(2)(b) did not do anything to physically resist PO Dones. PO Dones pushed § 87(2)(b) chest-first into the wall of a nearby building. § 87(2)(b) felt PO Dones drive his knee into the back of her knee. PO Dones handcuffed § 87(2)(b). § 87(2)(b) did not know how long this process took. § 87(2)(b) did not do anything to physically resist PO Dones. PO Dones did not issue § 87(2)(b) any commands. After PO Dones stopped pushing § 87(2)(b) against the wall, § 87(2)(b) noticed she was bleeding from one of her knees (BR13).

On § 87(2)(b), § 87(2)(b) featured an article about a civil lawsuit filed by § 87(2)(b) and § 87(2)(b) entitled § 87(2)(b) (BR86). The article did not contain any specific statements about alleged misconduct not addressed in § 87(2)(b)'s testimony to the CCRB.

The BWC footage of PO Abramson (BR16, summarized in BR37) depicts § 87(2)(b)'s position in relation to the site of § 87(2)(b)'s apprehension. At approximately 1:08 minutes in the recording, § 87(2)(b) is depicted at a distance from the officers and § 87(2)(b) filming the interaction, and she does not appear to physically interfere with the apprehension.

Deputy Inspector Ohare's BWC captures this portion of the incident (BR70, summarized in BR34). DI Ohare approaches the site of § 87(2)(b)'s arrest at 2m03s in the recording. When DI Ohare approaches, § 87(2)(b) is surrounded by officers and has not yet been placed in handcuffs. § 87(2)(b) is never seen in the immediate proximity of § 87(2)(b) nor is she seen physically interfering with § 87(2)(b)'s arrest. At approximately 2m09s, § 87(2)(b) states, "That's my cousin." Deputy Inspector Ohare states, "She's under arrest," and reaches towards § 87(2)(b)'s left arm as PO Dones turns § 87(2)(b) around. Deputy Inspector Ohare's hand makes contact with the front of § 87(2)(b)'s right shoulder and appears to pull his arm backward to cause § 87(2)(b) to continue to turn towards the wall. DI Ohare pushes § 87(2)(b) face-first into the wall, as another officer states, "Hands behind your back." PO Dones, who is standing to the left of DI Ohare, is not depicted taking any actions aside from placing § 87(2)(b) in handcuffs. § 87(2)(b) repeatedly informs the officers that she had just come from work and states, "That's my cousin. He picked me up from work." Other officers state, "You interfered with an arrest." At 02:27, DI Ohare states, "She's under arrest for OGA." DI Ohare's video also depicts officers arresting some individuals while failing to speak to or apprehend other cyclists and pedestrians.

PO Dones' BWC footage (BR26, summarized in BR43) depicts officers' initial physical contact with § 87(2)(b). At approximately 00m19s in the recording, PO Dones approaches § 87(2)(b) and stands directly behind him. DI Ohare, who is dressed in a white shirt-sleeve uniform shirt, places his left hand on § 87(2)(b)'s left shoulder and his right hand on an unknown part of the right side of § 87(2)(b)'s body, and pushes her against a nearby wall. PO Dones's hands are not seen in the footage, and it is unclear what, if any, PO Dones takes regarding § 87(2)(b).

In his testimony to the CCRB, Deputy Inspector Ohare initially stated that he did not independently recollect any interaction he had with § 87(2)(b). Deputy Inspector Ohare was shown his own BWC video from 2m11s. After watching the video, Deputy Inspector Ohare stated that he recalled approaching the corner where the incident occurred, and saw that officers had instructed § 87(2)(b) to move away and that § 87(2)(b) had refused. Officers had instructed § 87(2)(b) to move back because she was in close proximity to the arrest of another individual. § 87(2)(b) refused to move back which, to DI Ohare's understanding of obstruction of governmental administration, meant that § 87(2)(b) was interfering with the arrest. DI Ohare testified that he assisted with placing § 87(2)(b) under arrest by coming into physical contact with § 87(2)(b)'s right shoulder. Deputy Inspector Ohare noted that § 87(2)(b) did not comply with an officer's commands to turn around, but he did not recall any other actions § 87(2)(b) took to resist officers' attempts to place her in handcuffs (BR59).

After PO Dones stood up from where he had engaged § 87(2)(b) he observed Deputy Inspector Ohare further down the street. Deputy Inspector Ohare ordered that § 87(2)(b) be placed under arrest. PO Dones moved towards § 87(2)(b) and stood behind her. PO Dones did not recall any actions he took at this time other than standing directly behind § 87(2)(b). PO Dones did not recall

if he pushed § 87(2)(b) in the back. To PO Dones' knowledge, § 87(2)(b) did not do anything to resist arrest. PO Dones was shown his own BWC from Board Review 26 from 00:00 to 00:45. This portion of the video did not have audio. PO Dones did not recollect any additional information after watching this video (BR53).

As discussed above under Allegations D-F, Patrol Guide Procedure 221-01 governing the use of force outlines when force can be used (BR31).

As discussed under Allegations D-F, Emergency Executive Order No. 118 imposed a curfew between 8:00 PM and 5:00 AM June 2, 2020 to June 3, 2020 (BR78).

New York State guidelines issued by the governor includes in its definition of essential businesses "grocery stores including all food and beverage stores" and "restaurants/bars" (BR89).

New York Penal Law 195.05 defines obstruction of governmental administration thusly: "A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently lawful act."

As discussed under Allegations D-F, although there was a curfew in effect at the time of incident, the curfew contains several exceptions, including an exception for essential workers. § 87(2)(b) who was dressed in her work uniform from a fast-food restaurant, displayed the outward trappings of being someone who met the definition of an essential worker travelling to or from essential work as per Executive Order 118 and the New York State guidelines on essential services. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

In his statement to the CCRB and in a contemporaneous statement depicted in his BWC footage, DI Ohare stated that § 87(2)(b) should be arrested for obstructing governmental administration. In his CCRB testimony, he stated that § 87(2)(b) committed obstruction of governmental administration because she failed to comply with officers' orders to leave the area. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Procedure 221-01 outlines two acceptable circumstances under which officers can permissibly use force: when force is needed to ensure the safety of an officer or another person, and when it is necessary to place someone in custody. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (K) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Richard Accardi spoke discourteously to § 87(2)(b)

PO Accardi's BWC captures an interaction between PO Accardi and § 87(2)(b). Between 3m27s and 4m46s, PO Accardi stands near § 87(2)(b) on scene. They stand near a police vehicle with multiple other officers in the general vicinity. § 87(2)(b) is handcuffed. § 87(2)(b) complains about his arrest and states that he knows his rights. At 4m47s, PO Accardi states, "Stop moving, alright? Cut the shit. Stop being a tough guy, alright." (BR17, summarized in BR42).

§ 87(2)(b) did not testify to PO Accardi making this statement (BR12).

After being shown this section of BWC in the course of his interview, PO Accardi acknowledged his voice was the voice speaking in the video. PO Accardi stated that he made this statement towards § 87(2)(b) because § 87(2)(b) was yelling and being loud. PO Accardi did not provide any other reasons for making this statement (BR58).

NYPD Patrol Guide Procedure 200-02 states that officers must render services with courtesy and civility (BR68).

DCT Case 2013-10143 affirms that officers should remain courteous and professional, but makes an exception in that profane remarks may be permissible in the context of a dangerous situation or when added as an intensifier added to a lawful command in the context of a dangerous situation (BR69).

§ 87(2)(g)

Allegation (L) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare spoke discourteously to § 87(2)(b)

In her CCRB testimony, § 87(2)(b) testified that after being placed in a marked police vehicle, officers moved her to stand outside of a van. As she stood outside the van, Deputy Inspector Ohare, drove by in a vehicle. As he drove past, he stated, "Ah ha, stupid. That's why you stupid." § 87(2)(b) started crying. § 87(2)(b) described the subject of her complaint as a white male who was dressed in a uniform with a white shirt. § 87(2)(b) did not provide a description of the vehicle Deputy Inspector Ohare was inside of or his position inside the vehicle (BR13).

A § 87(2)(b) article in § 87(2)(b) (BR86) reports that in § 87(2)(b)'s civil lawsuit, she reported that the officer who called her stupid was DI Ohare.

PO Simon's BWC (BR24, summarized in BR49) captures a moment that matches the interaction reported by § 87(2)(b). Prior to 9m09s, PO Simon is depicted walking § 87(2)(b) to a police van. Aside from civilians who cycle past, the only vehicles present on the street where § 87(2)(b) is present are marked police vehicles. PO Simon repeatedly directs § 87(2)(b) to remain calm. At 9m09s in the recording or 8:33 p.m. according to the native timestamp, a black vehicle drives by the right of where § 87(2)(b) is being held. The interior of the vehicle is dark, the windows of the

vehicle are down, and the number of occupants cannot be determined from this video. A male voice emanates from the vehicle and says, "Stupid." The individual who made this statement cannot be seen. Although the rear of the vehicle is visible, the license plate number of the vehicle is unclear. Immediately after this statement is made, § 87(2)(b) asks PO Simon, "You see that?" PO Simon affirms that she did, saying, "Yeah" and later, "That wasn't needed."

PO Maciag stated that DI Ohare was not the occupant of the vehicle that drove by in PO Simon's video, which she reviewed in the course of her interview. PO Maciag stated that she would have recognized DI Ohare because she worked with him (BR80).

DI Ohare recorded BWC footage on the date of incident (BR70, summarized in BR34). However, the footage deactivates at 8:27 p.m. in the native timestamp.

DI Ohare testified that he had no recollection of when he left the scene. He did not recall calling anyone, "Stupid," on scene, and specifically did not recall calling § 87(2)(b) stupid out of a car window. DI Ohare drove a dark-colored unmarked sedan on the date of the incident (BR59).

§ 87(2)(g)

Allegation (M) Discourtesy: En route to the 6th Precinct stationhouse, Police Officer Danielle Ambrecht spoke discourteously to § 87(2)(b)

The investigation obtained PO Ambrecht's BWC footage (BR18, summarized in BR43). At 5m04s in the footage, PO Ambrecht enters the passenger seat of a marked vehicle, and the vehicle begins driving south on Broadway, transporting § 87(2)(b) to the stationhouse. During the drive, PO Ambrecht communicates with other officers over the radio and the unidentified male officer who is the driver regarding a crowd that may obstruct traffic. § 87(2)(b) periodically interjects during these communications. At 6m06s, the driver reports that there is a crowd at West Houston Street. At 6m09s, PO Ambrecht tells the driver, "Don't go this fucking way; go that way," "Don't get fucking trapped," and "Back the fuck up." The driver makes a radio transmission that there is a crowd of approximately 1000 people and that other officers should not use that street to transport arrested individuals. At 6m36s, the driver makes another transmission to note that there are approximately 1000 people. At 6m37s, § 87(2)(b) interjects, "It's 2000" two times. At the same time, the police radio dispatcher makes an announcement. At 6m45s, PO Ambrecht yells loudly at § 87(2)(b) "Shut the fuck up." PO Ambrecht had made no prior statement asking § 87(2)(b) to be quiet. § 87(2)(b) continues to speak repeatedly, stating, "You shut the fuck up," "You're going to remember my name," and other statements.

§ 87(2)(b) did not testify to PO Ambrecht making this statement (BR12).

PO Ambrecht testified that while driving to the stationhouse, the direct route from the incident location to the 6th Precinct stationhouse was obstructed at several points by large groups of civilian

protesters. PO Ambrecht had heard reports from previous days of officers' vehicles getting stuck in large protests, and of protesters attempting to gain access to, set on fire, and damage officers' vehicles, with officers inside. PO Ambrecht and PO Dones attempted to communicate with each other about avoiding these protests to safely return to the stationhouse with their prisoners. While they were attempting to talk, § 87(2)(b) loudly shouted various profanities and told the officers people would come for their families, as well as other phrases. PO Ambrecht told § 87(2)(b) to "Shut the fuck up" at a loud volume. She did this to attempt to prevent § 87(2)(b) from continuing to interrupt her communication with PO Dones and to allow PO Dones to effectively communicate over the radio. After PO Ambrecht told § 87(2)(b) to shut the fuck up, § 87(2)(b) lowered the volume of his interruptions (BR60).

NYPD Patrol Guide Procedure 200-02 states that officers must render services with courtesy and civility (BR68).

DCT Case 2013-10143 affirms that officers should remain courteous and professional, it makes an exception in that profane remarks may be permissible in the context of a dangerous situation or when added as an intensifier added to a lawful command in the context of a dangerous situation (BR69).

§ 87(2)(g)

Allegation (N) Abuse of Authority: Inside the 6th Precinct stationhouse, Police Officer Jonathan Dones did not obtain medical treatment for § 87(2)(b)

In his statement to the CCRB, § 87(2)(b) stated that as he reached the front of the line at the stationhouse, he stated that he needed medical attention to an unidentified officer. The officer responded that § 87(2)(b) was good, and that he should not ask for medical attention or he would be kept in the stationhouse longer. The officer told § 87(2)(b) that all the officers would be doing was issuing § 87(2)(b) a summons. § 87(2)(b) did not state why he needed medical attention inside the stationhouse (BR12).

PO Dones' body-worn camera footage (BR26, summarized in BR43) captures the entirety of § 87(2)(b)'s interactions with officers inside the 6th Precinct stationhouse up until § 87(2)(b) is lodged in the cells. This is depicted from 9m27s to 29m46s. In this period of time, § 87(2)(b) does not request medical attention. All of § 87(2)(b)'s verbal interactions inside the stationhouse are with PO Dones.

Because PO Dones was the officer who primarily interacted with § 87(2)(b) at the stationhouse including the time when § 87(2)(b) alleged the alleged request occurred, the allegation was pleaded against PO Dones. In his statement to the CCRB, PO Dones stated he did not recall if § 87(2)(b) requested medical attention inside the stationhouse (BR53).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR75).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR76).
- Deputy Inspector Robert O'Hare has been a member-of-service for 25 years and has been the subject of eight CCRB complaints and 16 allegations, none of which have been substantiated. § 87(2)(g)
- PO Dones has been a member-of-service for 11 years and has been the subject of seven CCRB complaints and 14 allegations, none of which were substantiated. § 87(2)(g)
- PO Accardi has been a member-of-service for four years and has been the subject of three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Shouldis has been a member-of-service for six years and has been the subject of two CCRB complaints and two investigations, none of which were substantiated. § 87(2)(g)

- PO Cheung has been a member-of-service for three years. This is the first CCRB complaint to which PO Cheung has been a party.
- PO Ambrecht has been a member-of-service for 14 years and has been the subject of two CCRB complaints and two allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- § 87(2)(b) filed a Notice of Claim claiming damages and seeking \$500,000.00. § 87(2)(b) claimed false arrest; use of excessive force resulting in physical injury; and violation of Constitutional rights including, without limitation, First and Fourth Amendment rights (BR71). A 50H hearing was held on § 87(2)(b). Minutes of the 50H hearing was denied under the NYS Public Officers Law § 87(2)(a) (BR85).
- § 87(2)(b) filed a Notice of Claim claiming damages and seeking \$500,000.00. § 87(2)(b) claimed use of excessive force resulting in physical injury; and violation of Constitutional rights including, without limitation, First and Fourth Amendment rights (BR72). A 50H hearing was held on § 87(2)(b). Minutes of the 50H hearing was denied under the NYS Public Officers Law § 87(2)(a) (BR85).
- According to the Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR73).
- According to OCA, § 87(2)(b) has no history of convictions in New York City (BR74).
- OCA does not list any outcome from the criminal summons issued to § 87(2)(b) on the date of the incident.

Squad No.: 12

Investigator: <u>Zachary Herman</u>	Investigator <u>Zachary Herman</u>	<u>05/27/2021</u>
Signature	Print Title & Name	Date

Squad Leader: <u>Carlmais Johnson</u>	IM <u>Carlmais Johnson</u>	<u>December 2, 2021</u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date